

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Keith Lynn and Jennifer Lynn)	
Plaintiffs,)	
v.)	Civil Action No. 2:20-cv-4277-JD
)	
United States of America,)	
Defendant.)	

LOCAL RULE 26.03 DISCLOSURES BY THE UNITED STATES

The United States of America provides these discovery responses in accordance with LOCAL RULE 26.03 and the Court's Prescheduling Order.

1. Short Statement of Facts: This is a medical negligence case, and its companion loss of consortium by a spouse case, against the United States through its agency, the Ralph H. Johnson VA Medical Center-Charleston. At the relevant time periods in the lawsuit, plaintiff was a patient at the VA being treated for pain and swelling in his right foot, leg, and/or ankle. He ultimately underwent a right leg amputation below the knee. Plaintiff alleges a failure to diagnose osteomyelitis leading to the below the knee amputation. The United State has denied liability in its Answer to the Complaint.

2. Fact Witnesses Likely to be Called and brief synopsis of testimony:

Answer: This Answer will be supplemented as discovery develops.

1. **Keith Lynn.** The plaintiff will testify accordingly.
2. **Jennifer Lynn.** The plaintiff will testify accordingly.
3. **Rahn Ravenell.** Dr. Ravenell is a treating Podiatrist.
4. **Debbie Byron.** Dr. Byron is a treating Podiatrist.
5. **Thomas Brothers.** Dr. Brothers is a treating vascular surgeon.
6. Any healthcare providers and other witness identified by plaintiff.

3. Names and Subject Matter of Testimony of Expert Witnesses:

The United States has not yet identified any expert witness. This disclosure will be supplemented according to the Scheduling Order timelines relating to defendant naming experts.

4. Summary of the Claims or Defenses:

This medical malpractice case is brought against the United States of America pursuant to the Federal Tort Claims Act alleging a breach of the standard of care owed to plaintiff. In South Carolina, a medical malpractice plaintiff will have to prove by a preponderance of the evidence (1) what the recognized and generally accepted standards, practices, and procedures in the community that would be exercised by competent physicians in the same field under similar circumstances are; (2) that the physicians or medical personnel in question deviated from the generally accepted standards, practices, and procedures; (3) that such negligent deviation was the

proximate cause of plaintiff's injury; and (4) the injury can be measured. *Dumont v. United States*, 80 F. Supp. 2d 576, 581 (D.S.C. 2000); *Chappie v. United States*, 2014 WL 3615384 (D.S.C., J. Gergel 2014); *Yonce v. Chaudhary*, 2018 WL 1697385 (2018) citing *David v. McLeod Regional Medical Center.*, 367 S.C. 242, 247-48 (2006). Expert testimony is required to establish proximate cause in a medical malpractice action if outside the common knowledge of experience. *Bramlette v. Charter-Medical-Columbia*, 302 S.C. 68 (1990). This case requires expert testimony. Adequate defenses will be tendered in this case, as there has been a denial of liability in our Answer.

5. Proposed Scheduling Deadlines: The current Scheduling Order is sufficient.

6. Special Considerations affecting the Time-frames:

No special considerations affecting the time-frames are required at this time.

7. Additional Information Requested in the Pre-Scheduling Order:

None known of at this time.

M. RHETT DEHART
ACTING UNITED STATES ATTORNEY

By: s/Lee E. Berlinsky
Lee E. Berlinsky (ID # 05443)
Assistant United States Attorney
151 Meeting Street, Suite 200
Charleston, South Carolina 29401
Telephone: (843) 266-1679
lee.berlinsky@usdoj.gov

June 15, 2021